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Appln. No. 10/720,782
Amendment dated August 13, 2007
Reply to Office Action mailed May 17, 2007

REMARKS

Reconsideration is respectfully requested.

Claims 1 through 18 remain in this application. Claims 19 through 30 have been cancelled. No claims have been withdrawn. Claims 31 through 37 have been added.

The Examiner's rejections will be considered in the order of their occurrence in the Office Action.

Paragraph 8 of the Office Action

Claims 4 through 6, 10 through 12 and 16 through 18 have been objected to for the informalities noted in the Office Action.

Claims 4, 10, and 16 have been amended in a manner believed to clarify any informalities in the language.

Further, claim 11 has been amended to depend on claim 10 instead of claim 7.

Withdrawal of the objection to claims 4 through 6, 10 through 12 and 16 through 18 is therefore respectfully requested.

Paragraphs 9 and 10 of the Office Action

Claims 2, 4 through 6, 8, 10 through 12, 14 and 16 through 18 have been rejected under 35 U.S.C. §112 (first paragraph) as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to make and/or use the invention.

Claims 2, 8, and 14 have been amended to address any possible confusion regarding the operating system characteristics.

Claims 3, 4, and 6, claims 9, 10, and 12, and claims 15, 16 and 18 have been amended in manner submitted to address any confusion regarding

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the pointer.

Withdrawal of the §112 (first paragraph) rejection of claims 2, 4 through 6, 8, 10 through 12, 14 and 16 through 18 is respectfully requested.

Paragraphs 11 through 15 of the Office Action

Claims 1 and 3 through 6 have been rejected under 35 U.S.C. §102(e) as being anticipated by Wang.

Claims 7, 9 through 12, 13 and 15 through 18 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Wang.

Claims 2, 8 and 14 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Wang in view of Stevens.

Claim 1 requires "saving the operating system type in a data recorder". Claim 7 includes a similar but not identical requirement. Claim 13 requires "wherein the program of instructions configures the information handling system to determine an operating system type, save the operating system type to the data recorder, and load a firmware module based on the saved type".

In the rejection of the Office Action, it is asserted that the claim requirement is disclosed by the Wang patent at, for example, col. 5, lines 51 through 54. As noted in the rejection of the Office Action, the Wang patent states at col. 5, lines 51 through 54 that:

At this point, the JNI implementation can display to the user the detected local system characteristics, as will be discussed with reference to FIGS. 6B and 6C below.

However, nothing here states or suggests that the type of operating system is saved, or that the type is saved in a data recorder. Looking to Figures 6B and 6C, nothing in these figures, which show two screens displayed by the Wang system, shows a type of operating system, or suggests that the type of

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operating system has been saved. It is noted that the text of the Wang patent merely discusses the detection of the type of operating system for the purpose of "selecting a JNI implementation that is appropriate for that type of OS." In greater detail, col. 5, lines 41 through 51 states:

While running, the Java program detects the type of operating system (OS) of the local computer system in operation 412. Once the type of OS is detected in operation 412, operation 414 proceeds with the Java program selecting a JNI implementation that is appropriate for that type of OS. In operation 416, the JNI implementation runs on the local computer system, and in operation 418, detects local system characteristics such as the operating system type, the local hardware device type, the current firmware version and bug fixes, and the local system CPU type.

Nothing here suggest that once the operating system type is detected, and the appropriate JNI implementation is selected, that there is any saving of the operating system type, particularly in a data recorded.

Further, with respect to Figures 6B and 6C, the Wang patent states at col. 6, line 56 through col. 7, line 23:

After the firmware update is initiated, a screen 604 such as that depicted in FIG. 6B, can be displayed. In screen 604, the local hardware devices which were detected, along with the current firmware version for that local hardware device, is displayed. From screen 604, the local hardware device that the user desires to update can be highlighted and then selected through the user's selection of the area of the screen indicated as a select button 606. FIG. 6C depicts a screen 610 that is displayed after the user selects the desired local hardware device. In screen 610, the device identifier along with the firmware version and any bug fix identifier is displayed. Also displayed are areas of the screen 610 which are identified for various operations that are available to the user. For example, a save button 612 is available for saving the current version of the firmware to a file in the memory of the local computer system. Also a flash button 614 is provided whose selection by the user causes loading of the update file to the RAM of the local computer system, the erasing of the local hardware device ROM, the writing of the update file from the RAM to the ROM, and comparison of the now-updated ROM to the update file on the RAM so as to verify that the update has been properly completed. In addition, other operations can be made available to the user by identifying portions of the screen that can be selected by the user.

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Nothing here suggests that any operating system type is saved in a data recorder. It is submitted that one of ordinary skill in the art would not understand that the Wang patent teaches that the operating system type is saved in a data recorder.

Further, claim 2 requires "wherein the determining step comprises comparing at least one of the date, time and number of bytes of a common file of the operating system". Claim 8 requires "wherein the determining step comprises comparing at least one of the date, time and number of bytes of a common files of the operating system". Claim 14 requires "wherein the information handling system determines the operating system by comparing at least one of the date, time and number of bytes of a common file of the operating system".

It is conceded in the rejection that the Wang patent does not disclose the requirements of these claims, and it is then alleged that the Stevens discloses these requirements of the claims. Specifically, the rejection points to Figure 6B and col. 14, lines 15 through 20, which state:

If the file system is supported or known, the process 220 proceeds to process block 345, where it reads the file system's directory structure and parses through the known subdirectories. The process 220 then determines the operating system by reading a set of specific files and parses the content of the files.

However, the discussion here is very general, and does not disclose "comparing at least one of the date, time and number of bytes of a common file of the operating system" as required by claims 2, 8, and 14. It is therefore submitted that the Stevens patent, even if an obvious combination with the Wang patent could be proposed, would not lead one of ordinary skill in the art to the requirements of these claims.

It is therefore submitted that the cited patents, and especially the allegedly obvious combination of Wang and Stevens set forth in the

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rejection of the Office Action, would not lead one skilled in the art to the applicant's invention as required by claims 1, 7, and 13. Further, claims 2 through 6, 8 through 12, and 14 through 18, which depend from claims 1, 7, and 13 respectively, also include the requirements discussed above and therefore are also submitted to be in condition for allowance.

Withdrawal of the §102(e) and 103(a) rejections of claims 1 through 18 is therefore respectfully requested.

CONCLUSION

In light of the foregoing amendments and remarks, early reconsideration and allowance of this application are most courteously solicited.

Respectfully submitted,

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Date: Aug. 13, 2007

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